

Art Unit: 3626

1. From: MPEP 706.07(h) Request for Continued Examination Practice

35 U.S.C. 132(b) provides for continued examination of an application at the request of the applicant (request for continued examination or RCE) upon payment of a fee, without requiring the applicant to file a continuing application under 37 CFR 1.53(b). To implement the RCE practice, 37 CFR 1.114 provides a procedure under which an applicant may obtain continued examination of an application in which prosecution is closed (e.g., the application is under final rejection or a notice of allowance) by filing a submission and paying a specified fee. Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). See 37 CFR 1.145. Any newly submitted claims that are directed to an invention that is independent and distinct from the invention previously claimed will be withdrawn from consideration and not entered. See subsection VI. below. An RCE is not the filing of a new application. Thus, the Office will not convert an RCE to a new application such as an application filed under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d).

2. The amendment filed on 6/19/2008 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the newly added claims could have restricted had they been presented with the earlier filed invention. For example, claim 49 is directed to "generating a report based on the querying step" while claim 63 is directed to "constructing an optimization plan to optimize the current drug therapy plan."

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Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

/N. R. S./  
Examiner, Art Unit 3626  
8/14/2008

/Robert Morgan/  
Examiner, Art Unit 3626